

# Shainis & Beltzman

Counselors at Law  
Suite 200  
2000 L Street, N.W.  
Washington, D.C. 20036

Aaron R. Shainis  
Lee J. Beltzman

(202) 416-1633  
Fax (202) 416-1823

Of Counsel  
William H. BuRoss, III  
Ruth S. Baker-Battist

July 29, 1996

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

RECEIVED

JUL 29 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

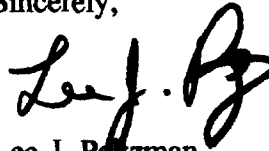
Re: MM Docket No. 96-125  
Hilton, New York

DOCKET FILE COPY ORIGINAL

Dear Mr. Caton:

Transmitted herewith, on behalf of Great Lakes Wireless Talking Machine Company, is an original and four (4) copies of its Comments in the above-referenced rule making. Please contact the undersigned should questions arise regarding this filing.

Sincerely,



Lee J. Beltzman  
Counsel for

GREAT LAKES WIRELESS  
TALKING MACHINE COMPANY

Enclosure

No. of Copies rec'd  
List ABOVE

024

**Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the matter of	)	
	)	MM Docket No. 96-125
Amendment of Section 73.202(b)	)	RM-8807
FM Broadcast Stations	)	
(Hilton, New York)	)	

To: Chief, Allocations Branch  
Mass Media Bureau

**RECEIVED**

**JUL 29 1996**

**COMMENTS**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Great Lakes Wireless Talking Machine Company ("Great Lakes Wireless"), by its counsel, respectfully submits its comments with respect to the above-captioned rulemaking proposal of Alan Bishop d/b/a Hilton Broadcasting, which seeks the allotment of Channel 238A to Hilton, New York. *Notice of Proposed Rule Making*, DA 96-883, released June 7, 1996. In support of its position, the following is submitted:

Great Lakes Wireless is the licensee of Station WNVE-FM (Channel 236B), South Bristol Township, New York and FM Translator Station W238AB, Rochester, New York. As such, it is familiar with the operation of a broadcast facility on Channel 238.

The Commission acknowledges in its Notice that Hilton Broadcasting's proposal for Channel 238A will result in substantial short-spacings to Stations CKDS-FM (Channel 237C1), Hilton, Ontario, Canada and CJBCIF, (Channel 238C1), Belleville, Canada. According to the Commission, the petitioner will attempt to avoid interference with these

stations. However, the Commission should not blindly accept such a self-serving promise. As licensee of a low power facility currently operating on Channel 238, Great Lakes Wireless has successfully responded to inquiries from Station CJBC. However, Hilton Broadcasting proposes to operate a higher power Class A FM facility from a (135 kilometer short-spaced) transmitter site situated closer to the Canadian station. As a result, interference complaints are certain to result from effectuation of this proposal. See Engineering Statement.

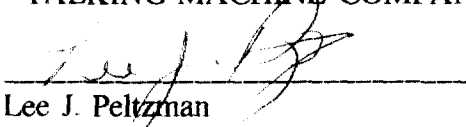
Moreover, not only will the proposal result in increased objectionable interference to Canadian stations in the instant case, but it will also serve as undesirable precedent, encouraging other requests for serious short-spacing allotments along the 5,000 kilometer U.S./Canadian border. Thus, the Commission can only do considerable damage to its own technical rules by approving this proposal.

The Commission must resist the temptation to lower its technical standards. It must deny the proposal of Hilton Broadcasting which will result in increased interference.

Respectfully submitted

GREAT LAKES WIRELESS  
TALKING MACHINE COMPANY

By:

  
Lee J. Peltzman  
Its Counsel

SHAINIS & PELTZMAN, CHARTERED  
2000 L Street, N.W.-Suite 200  
Washington, D.C. 20036  
202/416-1633

July 29, 1996

**Engineering Statement**  
**Objection to Proposed Rulemaking**  
**to Amend the FM Table of Allotments (§73.202(b))**  
**Addition of Channel 238A at Hilton, New York**  
**RM-8807 - MM Docket 96-125**

*prepared for*  
**Great Lakes Wireless Talking Machine Company**

**Introduction**

Great Lakes Wireless Talking Machine Company ("Great Lakes Wireless") respectfully requests the Federal Communications Commission to deny the petition for rulemaking by Alan Bishop d/b/a Hilton Broadcasting ("Hilton Broadcasting") to amend Section 73.202(b) of its rules to add FM Channel 238A at Hilton, New York. Great Lakes Wireless is the licensee of WNVE(FM) (Channel 236B - South Bristol, Township, New York) and W238AB (Rochester, New York).

If the Commission allots Channel 238A to Hilton, New York it will almost certainly increase the level of objectionable interference to short-spaced Canadian FM radio stations. Numerous interference complaints will probably be forthcoming from those Canadian FM radio stations and their Canadian listeners. Moreover, if the Commission acts to allot Channel 238A to Hilton, New York, with resultant 20 and 135 kilometer short spacings, it will encourage numerous other similar requests for extremely short-spaced allocations.

**Hilton, New York**

Hilton, New York is a community of 5,886 people (1990 U.S. Census), 22 km from the heart of a metropolitan area of 714,000 people (Rochester, New York, Monroe County, 1990 U.S. Census). Hilton receives numerous local broadcast stations. There are eight (8) commercial FM stations and six (6) AM stations allotted to Rochester alone.

### **Extreme (135 km) Short Spacing necessary for Hilton Reference Point**

If the Commission allots Channel 238A to Hilton, New York it will almost certainly increase the level of interference to the Canadian FM radio station CJBC (Ch. 238C1). The minimum distance separation requirements contained in Section 73.207 of the Commission's rules and in the 1991 Agreement Between Canada and the United States for the FM Broadcast Service ("The Agreement") are designed and agreed upon to limit interference to a nominal degree. The proposed allotment of Ch. 238A to Hilton, New York falls 135 kilometers short of the 256 kilometer separation required between Class B1 and Class C1 co-channel facilities pursuant to the Agreement and Section 73.207(b)(2)) for stations separated by the U.S. Canadian border. Even if Hilton were proposed as a 3 kW Class A facility, the allotment would fall 117 km short of the 39 km separation called for by U.S. Canadian Agreement and Section 73.207(b)(2) of the FCC rules. (The Agreement was developed for treatment of Class A stations with 3.0 kW instead of 6.0 kW. 6.0 kW Class A stations must be considered as Class B1 facilities.)

If the Commission allots Channel 238A to Hilton, New York, with 20 and 135 kilometer short spacings, it will encourage other, similar, requests for extremely short-spaced allocations. Similar allocations circumstances almost certainly exist along the almost 5,000 kilometers of U.S. Canadian Border.

### **Interference to CJBC - Ch. 238C1 at Belleville, Ontario**

If the Commission allots Channel 238A to Hilton, New York with the resultant short-spacings to Canadian stations, Great Lakes Wireless, from recent actual experience on Channel 238 at 250 Watts, seeks to advise the Commission that numerous interference complaints will probably be forthcoming from those Canadian FM radio stations and their Canadian listeners. Great Lakes Wireless operates FM translator station W238AB, a 250 Watt translator at a site 25.5 km southeast of the proposed reference point for Hilton. The site for W238AB is 134.3 km from the Belleville station on Ch. 238C1 (CJBC). Great Lakes Wireless is operating W238AB with 18% of the 1.35 kW ERP agreed upon between the U.S. and Canada for the

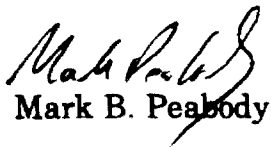
specially negotiated allotment for the translator. Great Lakes Wireless has successfully responded to inquiries from CJBC regarding its 250 Watt translator. However, Hilton Broadcasting is proposing a transmitter site significantly closer to Belleville with a full Class A facility. There will almost certainly be interference problems concomitant with the operation of Ch. 238A in close proximity to the U.S. Canadian border.

### **Conclusion**

Great Lakes Wireless objects to the allotment of Ch. 238A to Hilton, New York. Hilton is not suffering from lack of FM services because of its close proximity to Rochester, New York. The proposed allotment is extremely short-spaced to Canadian stations. There is a real issue of increased interference to Canada which Great Lakes Wireless believes should be brought squarely to the Commission's attention in this proceeding. The Commission should not discount its own agreements and rules which are based on demonstrated, sound engineering principles. Objectionable interference, as can be predicted to occur from the use of Ch. 238A at Hilton, New York, will wreak havoc with the Commission's own technical rules. Such an allotment will create a dangerous precedent that will encourage other, similar, extreme international short-spacings and damage the fabric of allotment principles.

### **Certification**

I, Mark B. Peabody, hereby certify that the foregoing statement was prepared by me or under my direction, that it is true and correct to the best of my knowledge and belief, and that my qualifications are a matter of record with the Federal Communications Commission.

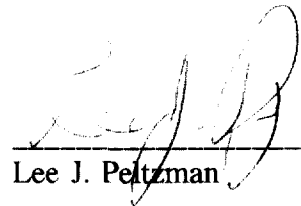
  
Mark B. Peabody

## **CERTIFICATE OF SERVICE**

I, Lee J. Peltzman, partner, in the law firm of Shainis & Peltzman, do hereby certify that copies of the foregoing document were sent, via First Class Mail, this 29th day of July, 1996, to the office of the following:

John A. Karousos  
Federal Communications Commission  
2000 M Street, N.W.-Room 54  
Washington, D.C. 20554

Mr. Alan S. W. Bishop  
d/b/a/ Hilton Broadcasting  
679 Furman Road  
Fairport, NY 14450



---

Lee J. Peltzman